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June 29, 2016

Via E-mail and FEDEX Overnight
Tracking Number: 850438134300

Shaun Burke
Senior Environmental Engineer
Air Enforcement Division, U.S. EPA Office of Civil Enforcement
William Jefferson Clinton Building South – Room 2119B
1200 Pennsylvania Avenue NW
Washington, DC 20004

**Re: Responses of Lexington Container Company to Clean Air Act Section 114(a)
Information Request**

Dear Mr. Burke:

Enclosed please find the responses of Lexington Container Company (“Lexington” or “LC”) to the EPA’s April 28, 2016, information request under Clean Air Act section 114(a). As we discussed on our June 1, 2016, telephone call, Lexington’s response is due on June 30, 2016.

As to the responses, I spoke with Mr. Tim Sullivan on June 23, 2016, about the form in which Lexington could produce documents. I explained that the information requested in requests numbers 4, 5, and 7(a) and (b) are contained in an Excel spreadsheet, and we agreed that (1) Lexington could produce that document in lieu of hard copies of invoices initially, and (2) EPA reserves its right to request that hard copies of the invoices be produced at a later date. The Excel spreadsheet and any other documents response to EPA’s request are contained on the enclosed CD.¹

In response to Enclosure 4 of the April 28, 2016, request, Lexington states as follows:

1. Lexington requests that the following information be treated as confidential by the EPA:

¹ Note: The Responses, including all Attachments were sent to Mr. Shaun Burke via e-mail on June 29, 2016; a CD containing the same documents was sent by FEDEX, next day delivery, to Mr. Shaun Burke.

- Any information provided in response to request 7(a) as contained in Attachment 2 (the Excel spreadsheet) of the EPA's April 28, 2016 notice. Specifically, (1) the names of purchasers, (2) all invoices, (3) and any other commercial information regarding sales by Lexington Container Co. to customers (purchasers).
- Any customer information contained in any spreadsheet, document, or other material provided by Lexington, including but not limited to:
 - Names (including first and last names, company names, billing names, and shipping names)
 - Email addresses (including personal emails, billing emails, and shipping emails)
 - Phone numbers (including personal numbers, billing numbers, and shipping numbers)
 - Payment amounts (including any shipping and handling costs, as well as taxes)
 - Payment methods
 - Order notes
 - Customer messages
 - Shipping and billing addresses: (including street name, suburb, state, zip code, and country)

2. Period of time for which confidential treatment is desired:

Lexington requests that the foregoing information be permanently treated as confidential. As the information being furnished contains personal information about private individuals, the need for confidentiality does not expire with time.

3. Purpose and date of submitting information to EPA:

This information is being submitted to the EPA in order to comply with the agency's request for information pursuant to section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a).

This information is being submitted to the EPA on June 30, 2016.

4. Previous claims of confidentiality:

Lexington has not made any previous claims of confidentiality regarding the foregoing information.

5. Protective measures taken:

The information claimed as confidential is stored within a private and protected database that only Lexington has access to. Lexington's website utilizes Secure Sockets Layer (SSL) technology in order to protect confidential customer information obtained through customer purchases.

No government agency, private company, or individual can lawfully access the information without the express authorization of Lexington Container Co. Furthermore, Lexington Container Co. has no intention of releasing such information to any government agency, private company, or individual in the future.

6. Prior disclosure of information:

The foregoing information has not been disclosed to any government agency, private company, or individual person outside of Lexington.

7. Prior confidentiality determinations:

No prior determinations regarding the confidentiality of this information have been made by the EPA or any other government agency.

8. Competitive harm from disclosure:

Disclosure of the foregoing information will cause substantial harm to Lexington's competitive position. From a competitive market standpoint, disclosure would make confidential business information available to Lexington's competitors. Specifically, competitors would be able to use confidential customer information to find and target Lexington's customers. Proprietary information regarding customers' names, addresses, and purchasing histories are highly valuable to retailers such as Lexington and its competitors. In this case, disclosure of such information would bestow a financial benefit on Lexington's competitors at the expense of Lexington, as competitors would obtain a large list of potential customers, at no cost to them.

Additionally, disclosure would inflict further harm on Lexington's competitive position by causing a substantial loss in customer faith and goodwill. Customers have done business through Lexington's website under the belief that their private information is protected and not shared

publicly. Making such information available through disclosure would violate the trust customers have placed in Lexington. This would cause irreparable damage to customer goodwill and overall business in the future, as customers would no longer feel comfortable transacting with Lexington online. Given that a substantial portion of Lexington's income is from online sales, loss of customer trust would render Lexington unable to compete in the marketplace.

Thus the competitive harm posed by disclosure is two-fold. Disclosure benefits competitors by providing them access to valuable customer information, not otherwise available. At the same time, disclosure damages the good relations and trust Lexington has cultivated with its patrons.

9. Mandatory submission of information

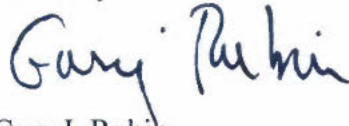
The foregoing information is being submitted on a mandatory basis, pursuant to the request made by the EPA on April 28, 2016 under 42 U.S.C. § 7414(a).

* * *

I would appreciate an opportunity to discuss Lexington's responses with you. As I am located in Washington, DC, I can be available on short notice.

If you have any questions about the responses, please contact me by phone, 202-898-5830, or via e-mail, grubin@hollingsworthllp.com

Sincerely,



Gary I. Rubin
Counsel for Lexington Containers Company

Enclosure: CD with responses

cc: Mr. Basilio Giangeruso

ENCLOSURE 2

Information Request

You are hereby required, in accordance with Section 114(a) of the CAA, 42 U.S.C. § 7414(a), to provide the following information:

Manufacture, Importation, and Purchase of Portable Fuel Containers

1. **Provide a list of all PFCs manufactured by Lexington Container Co. between January 1, 2012, and the present.** Lexington Containers (LC") does not manufacture portable fuel containers ("PFCs") nor has it ever manufactured PFCs.
2. **Provide a list of all PFCs stored by Lexington Container Co. between January 1, 2012, and the present. For each PFC provide an estimate of how long the PFC has been in storage.** To the extent LC "stores" PFCs, it does so only as long as it takes to sell the PFCs to customers, *i.e.*, LC "stores" on its own property the PFCs it purchases and then sells.
3. **Provide a list of all PFCs imported by Lexington Container Co. between January 1, 2012, and the present. Provide the name of the entity from which the PFC was imported.** Between January 1, 2012, and June 1, 2016, LC imported three types of PFCs -- 20L, 10L, and 5L -- from Ex. 4 - Confidential See Attachment 1.
4. **Provide a list of all PFCs sold by Lexington Container Co. between January 1, 2012, and the present.** LC has records of PFCs sold between January 1, 2014 and June 1, 2016, which are contained in the enclosed Excel spreadsheet. LC does not have records of individual sales of PFCs between January 1, 2012, and December 31, 2013. See Attachment 2.
5. **Provide a list of all Jerry Can nozzles sold between January 1, 2012, and the present.** LC has records of Jerry Can nozzles sold between January 1, 2014 and June 1, 2016, which are contained in the enclosed Excel spreadsheet. LC does not have records of individual sales of Jerry Can nozzles between January 1, 2012, and December 31, 2013. See Attachment 2.
6. **Provide the location of any warehouses or storage facilities where Lexington Container Co. stores PFCs identified in response to Request 2.** LC has PFCs currently stored at Ex. 4 - Confidential Louisville, KY 40216. None of these PFCs has been offered for sale nor will they be offered for sale.

7. For each PFC and nozzle identified in Request 1-5, identify:
- The names of the seller and purchaser as well as any invoice, and all other commercial information for the sale by you to the purchaser;** LC is the seller. The purchasers are contained in the Excel spreadsheet, attached. See Attachment 2.
 - The quantity that was sold by you organized by purchaser;** The quantity of the Jerry Cans and nozzles sold by LC are indicated in column "AV" of the attached Excel spreadsheet. See Attachment 2.
 - The name of all websites, magazines, trade publications, and any other media where Lexington Container Co. advertised the PFCs identified in Request 1 at any time since January 1, 2012. Provide copies of all such advertisements.** LC has had only one website on which it advertised PFCs: <http://www.lexingtoncontainercompany.com/>. It has not otherwise advertised its products.
8. **Identify the name, address, contact person, and phone number of each wholesaler, distributor, and/or authorized dealer for which Lexington Container Co. sold PFCs and nozzles identified in Request 1-5. For each entity identified, also identify the brand name under which each PFC is or has been marketed and provide a detailed, written description of the business relationship.** LC has not sold PFCs and/or nozzles to any wholesaler, distributor, and/or authorized dealer.
9. **Identify the name, address, contact person, and phone number of each wholesaler, distributor, and/or authorized dealer from which Lexington Container Co. purchased PFCs and nozzles identified in Request 1-5. For each entity identified, also identify the brand name under which each PFC is or has been marketed and provide a detailed, written description of the business relationship.** LC purchased PFCs and nozzles from Ex. 4 - Confidential
See Attachment 1. The "brand name" for each PFC is a generic name of the product, e.g., "jerry can".
10. **For the PFC listed at <http://www.lexingtoncontainercompany.com/Nato-Jerry-Cans.html> (see Enclosure 5), provide the information in Requests 7 through 9 for each PFC and nozzles, unless such information was already included in your response to Request 1-5. See Responses 1-5.**
11. **For PFCs that are identified in response to all of the above Requests, provide a copy of all valid certificates of conformity as identified in 40 C.F.R. §59.602.** LC has no such documents.

12. **For PFCs that are identified in response to all of the above Requests, provide a copy of all labels for each type of container (not every label) as identified in 40 C.F.R. §59.615.** The labels on the PFCs sold with the indication "CARB APPROVED" (as indicated on the Excel spreadsheet, Attachment 2) are attached hereto as Attachment 3.
13. **For Lexington Container Co. and any affiliated organizations provide a copy of your corporate documents, including but not limited to certificates of good standing, articles of incorporation, by-laws, and partnership or membership agreements, as applicable during the time since January 1, 2012.** There are no such documents.
14. **Identify the person(s) (including name, title, and a description of job duties) that provided information that was used or considered in responding to a request, as well as each person (including name, title, and a description of job duties) who was consulted in the preparation of the response. Provide contact information for follow-up questions to this request.**

Basilio Giangeruso, President and CEO, Lexington Containers. Mr. Giangeruso is the owner and operator of Lexington Containers. Mr. Giangeruso provided the information contained in the responses.

Gary I. Rubin
Hollingsworth LLP
1350 I Street, NW
Washington, DC 20005
202-898-5830

Mr. Rubin is counsel for Mr. Giangeruso in his responses to EPA's requests. He is also the contact person for initial follow-up requests about the above responses to EPA's requests.

ENCLOSURE 3

Statement of Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations pursuant to section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.


(Signature)

BASILIO GIANGERUSO
(Printed Name)

OWNER LEXINGTON CONTAINER
(Title)

6-29-2016
(Date)

